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SUBJECT: UN SANCTIONS IN CRISIS? ACADEMICS SAY YES

11. (SBU) SUMMARY: A team of academics has proposed a new international process to address what they consider to be unprecedented challenges to the legitimacy and effectiveness of UN sanctions. The threats that these academics highlighted to USUN included questions about the legitimacy of sanctions, concerns (including judicial challenges) about fairness and due process, weak coordination and follow-through on implementation and lingering misperceptions about the humanitarian impact of sanctions. In December, these academics met with select UN missions in New York to discuss a new international process to confront these challenges. Although representatives from P5 missions were not invited to this initial meeting, a U.S. professor, who backbriefed USUN on the discussions, reported that many missions shared his belief that UN sanctions need new, focused attention. He also outlined the shape of a proposed new international sanctions process modeled on conferences convened nearly ten years ago that reflected on the experience with sanctions imposed on Iraq and Yugoslavia. This process would bring together academics, diplomats and UN Secretariat staff to hammer out a vision for the next generation of UN sanctions. END SUMMARY.

SANCTIONS AT THE CROSSROADS: TIME FOR A NEW PROCESS?

12. (SBU) A team of academics has proposed a new international process to address perceived threats to the legitimacy and efficacy of UN multilateral sanctions. Professors George Lopez and David Cortright, both of the Sanctions and Security Center of the Fourth Freedom Forum and the Kroc Institute for International Peace Studies at the University of Notre Dame, are driving this initiative. In mid-December, Lopez explained to USUN his belief that sanctions are in urgent need of renewal. "Those of us who have been involved in this for a while," he said, "believe that this moment looks a lot like 1998, when the Iraq situation and toothless arms embargoes had created a palpable sense of sanctions fatigue at the Council and Secretariat staff level."

13. (SBU) Lopez identified five principal threats to UN sanctions:

- legal, administrative and political challenges that threaten the effectiveness and legitimacy of UN sanctions;
- ideological disagreements on how strong sanctions must be to inspire compliance;
- misperceptions about the humanitarian impact of sanctions and how this impact has been largely addressed by the shift from comprehensive to targeted sanctions;

-- inadequate coordination of sanctions policy, especially within the UN Secretariat; and,

-- inadequate engagement with the private sector.

¶4. (SBU) Lopez said he recognized the preoccupation of many states with "due process" issues, especially in the wake of a September 2008 European Court of Justice ruling that the EU's implementation of targeted sanctions violated human rights. (NOTE: Human rights critics have said that UN targeted sanctions procedures -- particularly those for listing and de-listing individuals -- are not fair and clear, and therefore violate the rights of designated individuals. END NOTE). Although he criticized the United States for approaching the due process debate too "defensively," he added that due process issues are only one piece of a broader crisis in UN sanctions.

DECEMBER MEETING: SHARED SENSE OF CRISIS

¶5. (SBU) On December 5, 2008, Lopez, Cortright and other academics attended a meeting at the Canadian Mission to the UN to discuss the possibility of a new international sanctions process to address these challenges. The meeting brought together diplomats from UN missions (mostly European), UN Secretariat staff, independent researchers and UN expert monitoring group members. Although the P5 was explicitly not invited to this meeting, Lopez acknowledged that P5 buy-in (especially from the United States) was essential to moving forward on any process.

¶6. (SBU) Lopez reported that attendees to this meeting generally agreed that "sanctions are at a low ebb." The participants, he said, discussed weak compliance with sanctions measures, a "perceived lack of unified purpose among Security Council members" on sanctions and poor implementation of targeted sanctions in failed state situations. Reportedly, the group also considered the Security Council's insufficient follow-through on the implementation of sanctions; as an example, he noted, more than two years ago the Council imposed sanctions on recruiters of child soldiers in the Democratic Republic of the Congo (DRC) but to date it has not taken any action.

¶7. (SBU) Lopez said many participants raised due process issues. He claimed, however, that during the meeting he and Professor Cortright sought to frame the concern about due process issues "in a broader context, as a way of breaking through the current impasse and engaging a wider range of states in finding practical solutions."

A NEW PROCESS: WORKING GROUPS, BROAD DISCUSSIONS

¶8. (SBU) Lopez noted how a series of international meetings earlier in this decade -- the "Bonn-Berlin Process" and the "Interlaken Process" -- brought together academics and diplomats to address the crisis in UN sanctions caused by negative experiences with sanctions in Iraq and Yugoslavia. Another such process, he proposed, could contain the following elements:

-- A public forum for the UN community to launch the process (early 2009);

-- The formation of six working groups to address: 1) domestic implementation of sanctions, 2) the establishment of an information management system for UN expert panels, 3) new sanctions coordination mechanisms in support of UN efforts to promote and support sanctions implementation by Member State and the private sector, 4) a public diplomacy strategy to overcome entrenched misperceptions about sanctions, 5) clear and fair procedures for listing and delisting, and 6) private sector engagement;

-- A substantive conference to review working group reports and policy research in order to prioritize policy

recommendations (fall 2009);

-- Publication of policy briefs and published volumes on sanctions opportunities and challenges (2010).

¶9. (SBU) Lopez and Cortright are now looking for governments willing to fund such a process (they claim Canada is interested). Lopez will return to New York in late January to continue discussions with UN missions, and he has expressed an interest in meeting with interested policymakers in Washington.

¶10. (SBU) COMMENT: USUN shares the assessment that UN sanctions are confronting serious new challenges to their legitimacy and effectiveness. As a result, we risk the slow deterioration of one the few non-violent coercive tools the Security Council has at its disposal. A growing sense of crisis, however, could provide an opening for the United States, in concert with our closest allies, to develop and put forth our own progressive vision for the next generation of UN sanctions. END COMMENT.
Khalilzad